IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 462 of 2001

with

CIVIL APPLICATION No 12340 of 2001

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT ELECTRICITY BOARD

Versus

BRIJLAL AGRO INDUSTRIES THRO' PROP.

Appearance:

1. Appeal from Order No. 462 of 2001

MS LILU K BHAYA for Appellant No.

MR TUSHAR MEHTA for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 25/01/2005

ORAL JUDGEMENT

1. The appellant Board has preferred this appeal from order being aggrieved by the order dated 15/10/2001 passed by the learned Chamber Judge, Court No.12, City Civil Court, Ahmedabad below Notice of Motion at exhs.5 & 17 in Civil Suit No.3491 of 2001, whereby the said Notion of Motion was allowed and the appellant Board was directed to reconnect the electric supply of the respondent on payment of 40% of the disputed bill amount plus regular reconnection charges and on a further condition that the respondent shall file an undertaking that he will make payment of the next 40% of the amount within 30 days from the date of the order and the remaining 20% within the next ten days.

2. Mr.Tushar Mehta learned advocate for the respondent has submitted that the respondent will apply for the transfer of electric connection to his name before the appellant Board within a reasonable period.

3. I have heard learned counsel for the parties and have perused the relevant documents on record. The appellant Board had preferred document vide exh.25 whereby it had contended that the total outstanding amount of the respondent was Rs.6,86,469.11 out of which the original plaintiff had paid Rs.3,16,311.45. Therefore, in my opinion, ends of justice would be met if the following directions are issued.

The appellant Board is directed not to disconnect the power connection of the respondent on the following conditions:

[a] The respondent shall pay the balance amount of Rs.3,70,158.00 to the appellant Board in respect of the supplementary bill and delay payment charges, if any, in twelve equal monthly installments, starting from 15th of February 2005. The delay payment charges referred to hereinabove shall be decided after the final outcome in the suit.

[b] If any default is committed by the respondent in making payment as mentioned above, it will be open for the appellant Board to disconnect the power connection of the respondent without any further orders of the trial Court.

[c] Pending the suit, the respondent shall

not transfer the unit and / or the property without the permission of the trial Court.

[d] The respondent shall pay the monthly consumption bill regularly.

4. Hence, the order dated 15/10/2001 passed below Notice of Motion at exhs.5 & 17 by the learned Chamber Judge, Court No.12, City Civil Court, Ahmedabad is quashed and set aside. The trial Court is directed to expedite the hearing of the suit being Civil Suit No.3491 of 2001 and to dispose it of as expeditiously as possible and preferably within a period of two years from the date of receipt of writ of this order. The amount deposited by the respondent as aforesaid will be subject to the final outcome of the suit, and if ultimately, the respondent succeeds before the trial Court, then the amount so deposited by the respondent shall be refunded to him along with interest at a rate that may be fixed by the trial Court keeping in mind the law laid down by this Court in the case of Kiran Industries, Mehsana v. Gujarat Electricity Board & anr. reported in 1995 (2) G.L.R., pg.1158.

5. In view of the contention raised by Mr.Mehta, the respondent is directed to apply for the transfer of electric connection to his name before the appellant Board within a period of one week from the date of receipt of writ of this order. On receipt of such an application from the respondent, the appellant Board is directed to consider the same in accordance with law which shall be without any prejudice to the rights and contentions of both the sides before the Civil Court.

6. With the aforesaid directions, this appeal from order stands disposed of. Direct service permitted.

CIVIL APPLICATION No 1069 of 2003

In view of the order passed in the appeal from order, no orders are necessary in this civil application. It stands disposed of accordingly.

(K. S. Jhaveri, J.)

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